

Utility Patent
Ser. No. 09/916,631

In the Claims

Please amend the following claims by deleting the language which is enclosed in brackets "[]" and inserting the language which is underlined "_____".

1. (Once Amended) An improved reversible zipper fly cover comprising:

a zipper having a first zipper flap opposite a second zipper flap;

a first panel connected to said first zipper flap and attached by a finished seam;

a second panel connected to said second zipper flap and attached by a finished seam;

an inner fly cover flap formed by attaching said first [panel] zipper flap to said first panel
by a first fly cover finish seam;

an outer fly cover flap formed by attaching said second [panel] zipper flap to said second
panel by a second fly cover finish seam,

wherein said zipper fly cover is symmetric whether formed "inside" or "outside".

REMARKS

Reconsideration of the application as amended is respectfully requested.

Claims 1-6 were rejected under 35 U.S.C. 112, second paragraph. Although Claim 1 has been amended to rectify the lack of antecedent basis, applicant is unable to identify claim 2, lines 2 and 6 (of examiner's detailed action, paragraph 5) having the indicated language.

In an attempt to clarify all of the issues under 35 U.S.C. 112, the present invention deals

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with a zipper closure for *reversible pants*. Reversible pants thereby have an inside and an outside that can be interchanged. The use of the flaps and seams as described in the claims, and in conjunction with the figures, provides finished pant in which a symmetric reversible zipper fly cover, being symmetric whether formed "inside" or "outside" without resorting to the use of a "patch" type fly flap on any side.

Claims 2-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hosogai. Briefly, these claims describe an improvement wherein a zipper flap formed symmetrically about each panel and the attachment strips of the zipper attached thereto by stitching. The inner fly flap formed by stitching one flap to its respective panel, and the outer fly flap formed by stitching another flap to its respective panel. It is established law that discovering defects of existing devices may be taken into consideration in determining the question of invention where the defect has been remedied. *In re Atkinson*, 102 F.2d 882, 41 USPQ 308, 311 (C.C.P.A. 1939). In the present case, it is the applicant's own reference that is being used to indicate obviousness; however, the applicant himself is attempting to solve a unique problem *caused* by this very same reference.

The examiner also states that zippers and buttons are equivalent securing means, and therefore interchangeable. However, this is NOT true when used on reversible pants. Reversibility of buttons is generally accomplished by providing a common button hole that is equally easily accessed from either planar surface. Then, a dual button head, having a separate attachment point on each surface is usually provided.

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This scheme is impossible to accomplish with zippers.

With slide fasteners, a dual access is not available and a zipper head having a reversible traveler guide. Even then, the creation of a clean, finished look when reversed was heretofore impossible to product absent the teachings of the present invention.

Additionally, the examiner rejected claims 1, 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over Hosogai in view of Cook. Nowhere is there disclosed or anticipated a finished pant in which a symmetric reversible zipper fly cover, being symmetric whether formed "inside" or "outside" without resorting to the use of a "patch" type fly flap on any side is provided. Based upon the above arguments, it is felt that the differences between the present invention and all of these references are such that rejection based upon 35 U.S.C. 103, in addition to any other art, relevant or not, is also inappropriate. This is because neither reference discloses or anticipates a true finished inner flap and finished outer flap, but merely incorporates a "mock" flap to aesthetically emulate such finished flaps.

However, by way of additional argument application wishes to point out that it is well established at law that for a proper *prima facie* rejection of a claimed invention based upon obviousness under 35 U.S.C. 103, the cited references must teach every element of the claimed invention. Further, if a combination is cited in support of a rejection, there must be some affirmative teaching in the prior art to make the proposed combination. See Orthopedic Equipment Company, Inc. et al. v. United States, 217 USPQ 193, 199 (Fed. Cir. 1983), wherein the Federal Circuit decreed, "Monday Morning Quarter Backing is quite improper when

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resolving the question of obviousness." Also, when determining the scope of teaching of a prior art reference, the Federal Circuit has declared:

"[t]he mere fact that the prior art could be so modified should not have made the modification obvious unless the prior art suggested the desirability of the modification." (Emphasis added). In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

There is no suggestion as to the desirability of any modification of the references to describe the present invention. An analysis of the disclosures within the cited references fails to cite every element of the claimed invention. When the prior art references require a selective combination to render obvious a subsequent claimed invention, there must be some reason for the selected combination other than the hindsight obtained from the claimed invention itself. Interconnect Planning Corp v. Feil, 774 F.2d 1132, 227 USPQ 543 (CAFC 1985).

Therefore, in view of foregoing amendments and clarifications, the applicant submits that allowance of the present application and all remaining claims, as amended, is in order and is requested.

Respectfully submitted,


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**PLEASE INCLUDE THE FOLLOWING CLEAN VERSION OF THE AMENDED
CLAIM(S) PURSUANT TO 37 CFR 1.121(C)(1)(I)**

1. (Once Amended) An improved reversible zipper fly cover comprising:
 - a zipper having a first zipper flap opposite a second zipper flap;
 - a first panel connected to said first zipper flap and attached by a finished seam;
 - a second panel connected to said second zipper flap and attached by a finished seam;
 - an inner fly cover flap formed by attaching said first zipper flap to said first panel by a first fly cover finish seam;
 - an outer fly cover flap formed by attaching said second zipper flap to said second panel by a second fly cover finish seam,wherein said zipper fly cover is symmetric whether formed "inside" or "outside".
2. In a reversible zipper fly cover formed for connecting a pair of pant panels utilizing an otherwise conventional zipper having a traveler incorporating a reversible traveler guide bounded laterally by a pair of attachment strips, wherein the improvement comprises:
 - a zipper flap formed symmetrically about each panel and the attachment strips of the zipper attached thereto by stitching.
3. In the reversible zipper fly cover of Claim 2, wherein said improvement further comprises an inner fly flap formed by stitching one flap to its respective panel.

4. In the reversible zipper fly cover of Claim 3, wherein said improvement further comprises an outer fly flap formed by stitching another flap to its respective panel.
5. A method for producing a zipper fly cover, said method comprising the steps of:
 - a. Connecting a first panel to a second panel via an otherwise conventional reversible zipper by formation of a first panel zipper flap attached to the first panel by a finished seam;
 - b. Connecting a second panel similarly prepared by formation of a second panel zipper flap attached to the second panel by a finished seam;
 - c. Attaching a first attachment strip to said first panel zipper flap in a manner offset from an outer edge, by an attachment seam;
 - d. Attaching a second attachment strip to the second panel zipper flap in an offset manner from an outer edge, by an similar attachment seam;
 - e. Forming an inner fly cover flap by attaching the first panel zipper flap to the first panel by a first fly cover finish seam; and
 - f. Forming an outer fly cover flap by attaching the second panel zipper flap to the second panel 12 by a second fly cover finish seam.
6. The method of Claim 5, further comprising the step of forming a crotch seam extended laterally downward.